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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,999	04/03/2001	Anthony V. Pugliese III	S2551010.1	6455

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John T. Timar
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
One Atlantic Center
1201 West Peachtree Street, Suite 3500
Atlanta, GA 30309

EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,999

Applicant(s)

PUGLIESE ET AL.

Examiner

Robert M. Pond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 43-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/06/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The Applicant amended all pending claims not withdrawn and substantively amended independent claims. All pending claims (10-42) not withdrawn were examined in this final office action necessitated by amendment.

Response to Arguments

Pertaining to Claim Objections in the previous office action

The Applicant corrected claim numbering. Claim Objections are withdrawn.

Pertaining to Rejection under 35 USC 102 in the previous office action

Applicant's arguments, see Remarks, filed 15 September 2005, with respect to the rejection(s) of claim(s) 10-22, 24-32, 34, and 37-40 under 35 USC 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection as necessitated by amendment is made in view of Tavor, Alloul, and Abrams teaching consumer remote control of video camera to view physical products for sale.

Pertaining to Official Notice (ON1, ON2)

The Applicant did not traverse the examiner's assertion of official notice. The common knowledge or well-known in the art statement is taken to be admitted

prior art because applicant failed to traverse or adequately traverse the examiner's assertion of official notice (MPEP 2144.03(C)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- 1. Claims 10-22, 24-32, 34, and 37-40 are rejected under 35 USC 103(a) as being unpatentable over Tavor (Paper #20050225, US 6,070,149) in view of Alloul (cited in IDS filed 20 August 2001, US 6032,130), further in view of Abrams (US 2004/0199435).**

Tavor teaches a system and method for enabling shoppers to connect to web-based shopping system to interact with a sales representative system for providing sales guidance and interaction with a sales representative during a shopping session (e.g. live or human persona generated by the system) (see at least abstract; Fig. 1 (22, 24, 26, 28); col. 1, line 5 through col. 2, lines 64). Tavor further teaches:

- connecting shoppers electronically with a sales assistant, enabling a live query and response session between a shopper and said sales assistant:**
live shopper and sales assistant can be either logic-based or human being

acting as a sales assistant (see at least col. 3, lines 31-41, 49-57); shopper making queries; conducting live chat with live human or human persona managed by the system- real or illusion of a real human conversation (see at least col. 9, lines 27-32); live sales representative briefed by the system regarding shopper interests before chatting with shopper; purchase history page helps sales assistant move the chat in the right direction (see at least col. 3, lines 54-57; col. 40, lines 64-67); adding sales representative functions to a virtual store (see at least col. 1, lines 51-58).

- displaying items selected by said sales assistant: logic-based or human sales assistant advises and makes product suggestions (see at least col. 3, lines 5-48);
- determining shopping criteria: (see at least col. 3, lines 31-41).
- creating a shopper profile; selecting items for display based on a shopper's profile: detection engine recognizes user characteristics and modifies the session from user to user according to the individual (see at least col. 3, lines 42-48).
- dynamically altered views: detection engine twists the session course (see at least col. 30, lines 28-32); change visual appearance of a question/answer session by outputting more multi-media (see at least col. 31, lines 9-14); changing the test of a question/recommendation based on specific conditions (see at least col. 31, lines 15-18).

- demographics: storing in a file the buyer's personal data (e.g. last name); employing user gender and age (see at least col. 35, lines 43-55).
- making payment: (see at least Fig. 14 (168); col. 3, lines 39-41).
- shopping cart: purchase mechanism displayed on shoppers web browser (see at least col. 11, lines 1-14).
- product availability: (see at least col. 3, lines 23-25).
- promotions: using coupons, discounted pricing, and total price including discounts (please note examiner's interpretation: receiving a discount is a reward for participating with the service) (see at least Fig. 14 (162, 164, 166, 170); col. 14, lines 1-9).
- marketing reports: provides market advisories adapted to shopper (see at least abstract; col. 3, lines 31-36).
- networks: (see at least col. 2, lines 35-50).

Tavor teaches all the above as noted under the 103(a) rejection and teaches a) live interaction by a consumer with a sales representative associated with an online commerce system, and b) use of video for product queries and reception by the consumer of video with motion for purchase-making decisions, but does not disclose disposing a video camera in a display area and remotely controlling the video camera to dynamically view the plurality of images of the selected items. Alloul teaches a multimedia catalog and electronic purchasing system and method that provides live interaction by a consumer with a sales representative associated with the online commerce system. Alloul teaches the use of video

cameras at the sales representative side and consumer side to support live interaction with voice and image transmissions, and further teaches consumers using the video camera feature for receiving more detailed information about particular products (please note examiner's interpretation: viewing products via a video camera) (see at least abstract; Fig. 3 (37); col. 10, lines 15-18). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Tavor to provide to a consumer video camera images of products as taught by Alloul, in order to provide detailed product information about the product for purchase decision-making, and thereby increase sales for the service.

Tavor and Alloul teach all the above as noted under the 103(a) rejection and teach use of video camera images to provide more detailed product information to a remotely connected shopper, but do not disclose the shopper controlling the video camera. Abrams teaches providing a telepresence experience using a system and method of online shopping that allows the online consumer to visually navigate in real-time an actual physical space while online in order to view physical objects located within the physical space. Abrams teaches combining online shopping with the advantages of in-store shopping via the telepresence experience. Abrams further teaches the online consumer remotely controlling the video camera to view objects within the physical space using controls provided by the consumer interface (see at least abstract; Fig. 1 (20, 30, 40, 50); Fig. 3 (70); paragraphs 0012, 0013, 0025, 0045, and 0052). Therefore it

would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Tavor and Alloul to provide video camera control by a remotely connected consumer of physical products on display as taught by Abrams, in order to provide a telepresence experience, and thereby attract consumers to the service.

- 2. Claims 23, 41, and 42 are rejected under 35 USC 103(a) as being unpatentable over Tavor (Paper #20050225, US 6,070,149), Alloul (cited in IDS filed 20 August 2001, US 6032,130), and Abrams (US 2004/0199435) as applied to claims 22, 32, and 35, further in view of Official Notice (admitted prior art regarding old and well known in the arts, hereinafter referred to as "ON1").**

Tavor, Alloul, and Abrams teach all the above as noted under the 103(a) rejection and teach the shopper providing credit card information and shipping information (see at least col. 23, lines 13-15), but do not disclose delivery modes and delivery dates to a shopper. The Examiner takes the position that is old and well known in the arts for retail merchants or online merchants to provide shipping modes and delivery dates to customers to meet their needs (e.g. ground, second day, next day air). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Tavor, Alloul, and Abrams to provide shipping options as taught by ON1, in order to

provide shoppers shipping modes and delivery dates to meet their needs, and thereby attract shoppers to the service.

- 3. Claim 33 is rejected under 35 USC 103(a) as being unpatentable over Tavor (US 6,070,149), Alloul (cited in IDS filed 20 August 2001, US 6032,130), and Abrams (US 2004/0199435) as applied to claim 28, further in view of Official Notice (admitted prior art regarding old and well known in the arts, hereinafter referred to as "ON2").**

Tavor, Alloul, and Abrams teach all the above as noted under the 103(a) rejection and teach a) selling products to shoppers based on available inventory or recommending available products, and b) bargaining with a shopper based on price and/or quantity, but does disclose dynamically priced goods based on inventory levels. The Examiner takes the position that it is old and well known in the arts for merchants to change a product's price as available inventory increases or decreases in order to meet changing business needs. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Tavor, Alloul, and Abrams to change pricing based on inventory levels as taught by ON2, in order to meet changing business needs, and thereby attract shoppers and sellers to the service.

- 4. Claims 35 and 36 are rejected under 35 USC 103(a) as being unpatentable over Tavor (US 6,070,149), Alloul (cited in IDS filed 20 August**

2001, US 6032,130), and Abrams (US 2004/0199435) as applied to claims 28 and 33, further in view of Business Wire (PTO-892, Item: U, hereinafter referred to as "BW").

Tavor, Alloul, and Abrams teach all the above as noted under the 103(a) rejection and teach a) online chat, and b) system support for video transmission, but does not disclose video chat between one or more shoppers. BW teaches video conferencing online and multi-party video chat to provide consumers and business with high quality video conferencing (U: see at least pages 1 and 2). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Tavor, Alloul, and Abrams to implement multi-party video chat as taught by BW, in order to shoppers and sales agents with high quality video chat, and thereby attract shoppers desiring visual contact with a sales representative.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Ody, Penelope; "Retailers keep an eye.....," Financial Times, 01 September 1999, Proquest #44335777, 4pgs; teaches the telepresence experience being applied to web-based shopping using robotically controlled video cameras in physical stores to present products to online shoppers; Retail Cybernetics.

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- Business Wire; "Internet based companies showing interest in telepresence 3D for streaming video applications," 19 February 1999, Proquest #39114642, 2pgs; teaches convergence of Internet commerce and telepresence; use of video cameras to support telepresence.
- Gillmor, Dan; "Bandwidth revolution may be at hand," 04 October 1998, Proquest #34822642, 4pgs; teaches telepresence providing real-life visual experience; requirements for increased bandwidth.

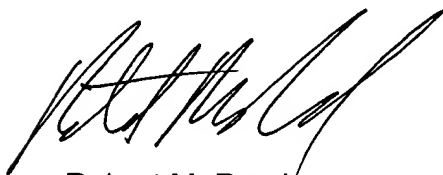
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 703-605-4253. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. M. Pond', written in a cursive style.

Robert M. Pond
Primary Examiner
November 20, 2005